

14 SEP 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Kurt T. Mulville
LYON & LYON LLP
633 West Fifth Street, Suite 4700
Los Angeles, CA 90071-2066

In re Application of :
ETCHES, Robert J. et al :
Application No.: 09/486,215 :
PCT No.: PCT/CA98/00792 : DECISION
Int. Filing Date: 21 August 1998 :
Priority Date: 22 August 1997 :
Attorney Docket No.: 251/037 US :
For: PRODUCTION OF PROTEIN IN EGGS :

This decision is in response to applicants' "Petition to Accord Filing Date of February 22, 2000" submitted 06 October 2003 which has been treated as a petition under 37 CFR 1.181 and is hereby **DISMISSED** as follows:

Applicants request to correct the filing date in the above-captioned application to 22 February 2000, the date of national stage entry. Section 1893.03(b) of the MPEP (Rev.2 May 2004 pg. 1800-194) states, in part:

37 CFR 1.496(a), first sentence, reads "International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met."

Thus, when the file wrapper label or PALM bib-data sheet and **filing receipt** are printed, the information is read from the PALM data base and the **information printed in the filing date box** is the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements **rather than the actual international filing date . . .**

Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong.

A review of the above-captioned application reveals that the DO/EO/US mailed a Notification of Acceptance of Application under 35 U.S.C. 371 on 25 June 2002 listing a date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and date of receipt of all 35 U.S.C. requirements of "07/08/2002" which is the date that applicants submitted a declaration in compliance with 37 CFR 1.497(a) and (b) and the \$65.00 surcharge fee.

Therefore, the filing receipt indicating a filing date of 08 July 2002 was correct.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration

request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the appropriate Technology Center for further processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457
(571) 273-3302 (after 30 September 2004)